

## **APPENDIX P**

### **ENVIRONMENTAL RESPONSE PROCEDURES FOR SUNKEN VESSELS**

#### **1. Background**

Many older, historic U.S. Navy vessels have sunk around the world due to armed conflict, act of God, or other reason. As these vessels age, corrosion or other natural processes may result in a failure in hull integrity or associated systems, leading to potential releases of oil into the sea. Such situations can present difficult questions of national sovereignty, jurisdiction, political sensitivity, and legal responsibility. Because each situation is unique, the appropriate U.S. response to potential oil releases from historic U.S. Navy vessels can only be determined on a case-by-case basis. This appendix outlines environmental response procedures for oil releases from sources that have been reported to be, or may be identified as, sunken U.S. Navy vessels.

This appendix in no way implies or creates any legal liability on behalf of the Navy not otherwise provided by existent U.S. law. Under no circumstances do the procedures described in this appendix obligate the Navy to perform any action on any vessel, or constitute tacit admission of fault, imply legal liability, or grant authority to obligate funds to carry out preemptive response actions on sunken Navy vessels. Further, this appendix does not create any right or benefit, substantive or procedural, enforceable in law or equity by a party against the U.S. Navy, the United States, its agencies, its officers, or any person.

#### **2. Procedures**

These procedures describe a process that, upon receipt of a report alleging an oil release from a sunken Navy vessel, the Navy will use to evaluate the incident and implement steps that facilitate an appropriate response under the circumstances. These steps will include initiation of a review/decision panel composed of subject matter experts from pertinent commands, allocation of responsibilities, and recommendations for appropriate responses, if any, based on the existing circumstances presented by the oil release incident on a case-by-case basis.

##### **2.1 Review Panel**

Upon notification or discovery of an oil release that may be attributed to a sunken Navy vessel, a review panel, convened by CNO (N45), will meet to address issues, coordinate actions, and make recommendations to DASN (E) concerning Navy's response to the event. At a minimum, the review panel should include the commands/activities shown in Table P1.

The review panel will make recommendations to DASN (E) concerning the Navy's appropriate response for each vessel on a case-by-case basis. Pertinent factors to be considered when addressing releases from sunken Navy vessels include legal liability, political implications, technical feasibility of response, magnitude of the release, historical significance of the vessel, whether the vessel may contain human remains, environmental impacts, interest by foreign governments, and interest from other U.S. Government agencies.

**Table P1 – Minimum Review Panel Representation**

<b>Command</b>	<b>Functions</b>
CNO (N45 - N452 & N45J)	Policy, resources, legal, environmental planning, public affairs
CNO (N3/N5)	Fleet coordination and operational tasking
JAG Admiralty (Code 11)	Legal
OLA - Legislative Division	Congressional inquiries
NAVSEASYSKOM – (SEA 00C & SEA 00T)	Technical support, response actions, environmental planning
CINCPACFLT or CINCLANTFLT – (N465 (as appropriate))	Local support (assets, media, etc)

## 2.2 Navy Actions

Table P2 presents an outline of procedures that the review panel may follow when notified of a potential oil release from a sunken vessel. This is a general outline and the actual process used may vary based on the nature of the release, the resources at risk, and other factors.

**Table P2 – Outline of Procedures**

A. Determine Title
Evaluate location and probability of vessel being Navy owned
Investigate any transfers and chain of custody
B. Determine Risk
Conduct literature/document research on sinking
Determine ship condition
Determine expected quantity of fuel on board
Evaluate need for a physical survey
Evaluate feasibility of conducting surveys (including technical approach and cost)
Evaluate applicable law if any
C. Determine Appropriate Response
Assess/survey the scene, as needed
Determine options/alternatives
Provide recommendations to chain of command
D. Respond if Appropriate for the Circumstances

NAVSEASYSKOM (00C) shall work with the Navy Historical Center to research the subject vessel as a potential source of the release. If there are any questions surrounding ownership or title, Navy JAG Admiralty shall provide support to resolve such issues prior to conducting a risk assessment. Only where the vessel in question is determined to be a Navy vessel will the review panel determine the appropriate actions, if any.

NAVSEASYSKOM (00C) will work with the applicable Fleet staff in developing risk assessments including ship information, alternative response actions, and potentially affected resources.

NAVSEASYSKOM (00C) and the Fleet staff representative shall summarize the information and present options for action to the review panel for consideration. DASN (E) or his designee shall approve any release to outside agencies of information developed or decisions reached by the review panel. CNO (N45) and DASN (E) shall approve the distribution of any information developed or decisions reached by the review panel to the media. CNO (N45J) shall coordinate any legal issues that arise with Office of Judge Advocate General, Admiralty and Maritime Law Division (Code 11) and OGC (I&E), as well as legal representatives from other commands represented on the review panel. If DASN (E) determines that on-scene response actions are appropriate, NAVSEASYSKOM (00C) shall assume technical lead and work with the appropriate Fleet to ensure effective use of Navy resources. Environmental planning, if required for proposed actions, shall be coordinated through CNO (N456) and NAVSEASYSKOM (00T).

### **2.3 Coordination with Other Agencies**

The review panel shall assist DASN (E) in coordinating with other Federal and State agencies that may have jurisdiction over property or resources that may be affected by operations on sunken vessels, or delegate authority to coordinate with other agencies. The Federal agencies involved may include the Department of State, Department of Interior, U.S. Coast Guard, EPA, NOAA, or others. The level of assistance required will vary depending on the nature of the actions considered and/or taken.

### **2.4 Funding**

Advance programming for funds is not an available option in the case of unspecified future oil response actions. If the review panel determines that site surveys are needed to fully assess the risk, or that response and/or follow-on remediation operations are warranted for a specific incident, coordination with ASN (FM&C) and FMB shall be initiated to identify potential funding options for each incident on a case-by-case basis. When advance planning is possible, claimants shall use POM/PR process to identify necessary funds.